

## SJ-EXHIBIT 19

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF OHIO  
3                   EASTERN DIVISION  
4   IN RE:   NATIONAL                   :   MDL No. 2804  
5            PRESCRIPTION OPIATE       :  
6   LITIGATION                        :   Case No. 17-md-2804  
7                                       :  
8   APPLIES TO ALL CASES           :   Judge Dan Aaron Polster  
9                                       :  
10                                      :  
11                                      :

12                   HIGHLY CONFIDENTIAL  
13                   SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

14                                      - - - -

15                                      DECEMBER 13, 2018

16                                      - - - -

17   VIDEOTAPED DEPOSITION OF HBC SERVICE COMPANY'S  
18   DESIGNATED 30(B)(6) REPRESENTATIVE,  
19   JAMES TSIPAKIS,  
20   taken pursuant to notice, was held at Marcus & Shapira,  
21   One Oxford Center, 35th Floor, Pittsburgh, Pennsylvania  
22   15219, by and before Ann Medis, Registered Professional  
23   Reporter and Notary Public in and for the Commonwealth  
24   of Pennsylvania, on Thursday, December 13, 2018,  
25   commencing at 9:09 a.m.

26                                      - - - -

27                   GOLKOW LITIGATION SERVICES  
28                   877.370.3377 phone | 917.591.5672 fax  
29                   deps@golkow.com

1           A.     From late 2009 to early 2016.

2           Q.     And to what businesses or entities did  
3     HBC distribute controlled substances?

4           A.     To our own stores, Giant Eagle  
5     pharmacies.

6           Q.     Did HBC distribute to any other  
7     businesses, pharmacies, hospitals, physicians,  
8     other than Giant Eagle stores?

9           A.     No.

10          Q.     During the time period that HBC  
11     distributed Schedule III controlled substances,  
12     would it be accurate to say that opioids, and,  
13     more specifically, hydrocodone combination  
14     products was one of the drugs that HBC  
15     distributed?

16          A.     HBC only distributed hydrocodone  
17     products as a Schedule III. Once it was  
18     reclassified, they no longer distributed those  
19     products.

20          Q.     So the answer is, yes, from 2009 until  
21     200- -- or, excuse me, until hydrocodone was  
22     reclassified, HBC did distribute hydrocodone  
23     combination products?

24          A.     From -- potentially from '09 through the  
25     reclass, yes.

1 experts within Giant Eagle or HBC about the topics  
2 that you needed to testify on today?

3 A. Yes.

4 Q. And as a result of that preparation, you  
5 don't know whether or not HBC ever had a written  
6 suspicious order monitoring policy or procedure in  
7 place from 2006 through July 31, 2014; is that  
8 correct?

9 MR. BARNES: Object to form. Asked and  
10 answered about three times.

11 Go ahead.

12 THE WITNESS: I couldn't find whether  
13 there was or there wasn't written policies. For  
14 that timeframe that you're asking me, I'll answer  
15 it again, I don't know.

16 BY MR. GADDY:

17 Q. When did HBC begin distributing Schedule  
18 III controlled substances?

19 A. HBC began distributing Schedule III in  
20 late 2009.

21 Q. And when did HBC stop distributing  
22 Schedule III controlled substances? Let me back  
23 up and reask that.

24 When did HBC stop distributing hydrocodone  
25 combination products that were rescheduled to

1 Schedule II?

2 A. The effective date of when hydrocodone  
3 was rescheduled from class III to class II, which  
4 I believe was around October of 2014.

5 Q. So HBC distributed hydrocodone  
6 combination products from November 2009 through  
7 approximately October 2014; correct?

8 A. Correct.

9 Q. And the first written suspicious order  
10 monitoring policy or procedure that HBC is aware  
11 of went into effect August 1, 2014; correct?

12 A. I'll answer again that those are the  
13 policies we were able -- I was able to find. I  
14 don't know if there was or there wasn't, but...

15 Q. As far as you know, as far as HBC knows,  
16 the first suspicious order monitoring policy or  
17 procedure that they had was August 1, 2014?

18 A. Again, the first one that I'm able to  
19 produce written was August 2014.

20 Q. But it's more than that. It's the first  
21 one you know about that's written; correct?

22 A. It's the first written policy. It  
23 doesn't mean there wasn't others. I don't know.

24 Q. It's the first written policy that you  
25 know about?

1 the same policy as before, same effective date of  
2 8/1/14. Do you see that?

3 A. Yes.

4 Q. And if you look over there, this is now  
5 the third version of the policy. This is updating  
6 what we just looked at; right?

7 A. Yes.

8 Q. And the date of this update is  
9 February 26, 2016. Do you see that?

10 A. Yes.

11 Q. As far as I could tell, the only  
12 substantive update here is under scope where it  
13 talks about who the policy applies to, and this is  
14 the first time we see the acronym GERXDC.

15 Do you see that?

16 A. Yes.

17 Q. What does that mean?

18 A. It's the Giant Eagle RX DC.

19 Q. DC for distribution center?

20 A. Yes.

21 Q. So is this entity a Giant Eagle entity?

22 A. It's owned by Giant Eagle, yes.

23 Q. And is this entity licensed to  
24 distribute Schedule II, III, IV and V narcotics?

25 A. Yes.

1 Q. And does it, in fact, distribute  
2 Schedules II, III, IV and V narcotics to Giant  
3 Eagle pharmacies?

4 A. Yes.

5 Q. And is this timeframe, February of 2016,  
6 approximately when that facility went online?

7 A. Yes.

8 Q. Would this also be the time period that  
9 HBC stopped distributing prescription medication  
10 to Giant Eagle pharmacies?

11 A. Yes.

12 Q. And that's why if we look at who this  
13 applies to, we don't see anybody from HBC anymore?

14 A. Yes.

15 Q. Go to -- I'm on .7 of the same document.  
16 And this looks like a slightly different policy.  
17 Again, this is a Giant Eagle document. Do you see  
18 that?

19 A. Yes.

20 Q. And the title listed is Order Monitoring  
21 System Policy. Do you see that?

22 A. Yes.

23 Q. And the effective date is February 2,  
24 2017; is that correct?

25 A. Yes.

1     they pick up the bottle? Break it down for me,  
2     please.

3           A.     There's a system certainly that there's  
4     an order well that generates what each store needs  
5     or has requested. And then there's assistance, a  
6     device that they -- I don't know the exact name  
7     for it, but there's certainly a warehouse  
8     management system that they use. And it's  
9     different slotting in the warehouse and they know  
10    which slot to go to and how many to pick.

11          Q.     And then what? They drop it in the tote  
12    and put it on a truck?

13          A.     Yes.

14          Q.     And approximately -- let me back up.  
15                 How many different warehouses did HBC have  
16    that were responsible for distributing Schedule  
17    III narcotics?

18          A.     There's only one warehouse.

19          Q.     And what's the address for that  
20    warehouse, for HBC's warehouse?

21          A.     I can't give you the exact -- I don't  
22    know the exact address.

23          Q.     You know do the name of the road?

24          A.     No.

25          Q.     Approximately how many pickers would

1 are some of the things that were laid out in the  
2 policies that we saw that Giant Eagle adopted in  
3 2015 and -- I'm sorry -- 2014 and then 2015;  
4 correct?

5 A. Yes, but I will tell you these type of  
6 inquiries would be happening all along as far as  
7 from talking to investigative folks and the folks  
8 that were involved. It would not be uncommon for  
9 something to trigger and then someone from  
10 corporate or the warehouse talking to the field.  
11 So that's what you're seeing here.

12 Q. Well, are you aware of any investigation  
13 such as this that happened at any time from 2009  
14 to 2014?

15 A. As far as written ones that I could find  
16 in preparation?

17 Q. Correct.

18 A. I didn't have any I could find.

19 Q. If you go to .20 of this same document,  
20 we see an email from Jason Mullen. Do you see  
21 that?

22 A. Yes.

23 Q. Who is Jason Mullen and what does he do?

24 A. Jason was one of the folks that worked  
25 on the compliance team.

1 A. Can you ask that again?

2 Q. You in getting ready for this deposition  
3 haven't undertaken any personal investigation to  
4 make sure all of these orders that totaled 10  
5 million units to Cuyahoga County and 8 million to  
6 Summit County were all valid orders, have you?

7 MR. BARNES: I object to form. Nor was  
8 he required to do so.

9 THE WITNESS: I did not.

10 MR. ROTTINGHAUS: I think that's all I  
11 have.

12 MR. BARNES: I have some.

13 EXAMINATION

14 BY MR. BARNES:

15 Q. Mr. Tsipakis, you were asked some  
16 questions about the so-called suspicious order  
17 regulation of 1301.74(b). Do you remember that?

18 A. Yes.

19 Q. Were you shown during your deposition at  
20 any time the security regulation in 1301.71 of the  
21 Code of Federal Regulations?

22 A. I was not.

23 Q. What do you understand the security  
24 regulation to be?

25 A. The security regulation in its entirety

1 is meant to -- for a registrant to have proper  
2 controls to prevent diversion and theft.

3 Q. And do you understand that to be the  
4 main requirement that distributors are supposed to  
5 meet?

6 MR. GADDY: Object to the form.

7 THE WITNESS: Yes.

8 BY MR. BARNES:

9 Q. Did HBC meet that requirement at all  
10 times?

11 A. Yes.

12 MR. GADDY: Objection to form.

13 BY MR. BARNES:

14 Q. Did Giant Eagle meet that requirement if  
15 it was required to do so at all times?

16 MR. GADDY: Objection to form.

17 THE WITNESS: Yes.

18 BY MR. BARNES:

19 Q. Now, do you understand that the one part  
20 of the regulation that was shown to you, the  
21 1301.74, the one that says design and operate a  
22 system to disclose to the registrant suspicious  
23 orders of controlled substances, do you understand  
24 that to be the only factor taken into  
25 consideration for the security requirement?

1 MR. GADDY: Objection to form.

2 THE WITNESS: It's not the only factor,  
3 no.

4 BY MR. BARNES:

5 Q. What are some of the other factors?

6 A. Physical security, record keeping,  
7 basically multiple controls at all levels in the  
8 distribution chain.

9 Q. So it's not a simple question of meeting  
10 the security requirement. Just go 1301.74(b) and  
11 say, well, did you meet this requirement. It's  
12 more a comprehensive requirement; is that  
13 accurate?

14 MR. GADDY: Objection to form.

15 THE WITNESS: It's a much more  
16 comprehensive process that's needed. That's one  
17 piece of a total system.

18 BY MR. BARNES:

19 Q. And is it your understanding under the  
20 security requirement regulation that you're  
21 supposed to look at the registrant's overall  
22 security system, or do you just look at the piece  
23 called suspicious order monitoring system?

24 A. The overall system, the overall system,  
25 a lot of different factors is listed on the type

1 of controls that are distributed, the type of  
2 chemicals, et cetera. So there's a whole host of  
3 things that go into that.

4 Q. You told us under questioning by  
5 plaintiffs' counsel that HBC was never a  
6 controlled substance II facility; is that correct?

7 A. That's correct.

8 Q. Are those the most dangerous drugs -- in  
9 terms of the DEA hierarchy, you have controlled Is  
10 which are what?

11 A. Controlled Is, marijuana, peyote,  
12 et cetera. Those are list I chemicals that  
13 typically are not in the purview of retail  
14 pharmacists.

15 Q. Would it be fair to say those are  
16 illegal drugs. Nobody is supposed to use them at  
17 any time for any purpose?

18 MR. GADDY: Objection. Form.

19 THE WITNESS: Yes.

20 BY MR. BARNES:

21 Q. And then below that you get into  
22 controlled substance Schedule II; is that correct?

23 A. Correct.

24 Q. Is that where most opioids exist and  
25 have always existed in that category?

1 Prescription opioids I'm talking about.

2 MR. GADDY: Objection to form.

3 THE WITNESS: Yes.

4 BY MR. BARNES:

5 Q. The one exception for purposes of our  
6 case is the HCP products; is that right?

7 A. That were later reclassified, yes.

8 Q. When HBC distributed that, it only  
9 distributed it when it was classified as Schedule  
10 III; is that correct?

11 A. Correct.

12 Q. So when determining compliance with the  
13 security requirement, did HBC take into account  
14 that it was never a controlled substance II  
15 distributor?

16 MR. GADDY: Objection. Form.

17 THE WITNESS: Yes.

18 BY MR. BARNES:

19 Q. Did HBC also consider the quantity of  
20 the controlled substances it was handling when it  
21 designed its overall security system?

22 A. Yes.

23 Q. Did it consider its internal controls  
24 over the receipt, manufacture, distribution and  
25 disposition of the controlled substances it was

1 handling?

2 A. Yes.

3 Q. Did it consider the physical security  
4 facilities that it had?

5 A. Of course, yes.

6 Q. While HBC was distributing controlled  
7 substance IIIs, IVs and Vs, did it get visited  
8 frequently by the DEA to perform audits and other  
9 inspections?

10 MR. GADDY: Objection to form.

11 THE WITNESS: Yes. It was visited by  
12 the DEA, yes.

13 BY MR. BARNES:

14 Q. Did the DEA ever say to HBC you're not  
15 meeting the security requirement under the  
16 regulations?

17 MR. GADDY: Objection. Form.

18 THE WITNESS: Not to my knowledge, no.

19 BY MR. BARNES:

20 Q. Are you aware of any DEA regulation that  
21 says you're supposed to use a threshold-based  
22 system to monitor for suspicious orders?

23 A. No.

24 Q. Are you aware of any DEA regulation that  
25 requires you to set a threshold at any level?

1 A. No.

2 Q. Now, we're talking about or we covered  
3 in your direct testimony the fact that Giant Eagle  
4 had two separate warehouses, is that correct, the  
5 HBC warehouse and then the GE RX warehouse?

6 A. Yes.

7 Q. And are they both separately licensed by  
8 the DEA?

9 A. Yes.

10 Q. Are they both separate physical  
11 facilities?

12 A. Yes.

13 Q. And unlike HBC, which only had a license  
14 for IIIs, IVs and V, did the GE RX facility also  
15 do some Schedule IIs?

16 A. Yes.

17 Q. And do both warehouses only and have  
18 they only ever supplied Giant Eagle pharmacies?

19 A. That's correct.

20 Q. Did either warehouse ever supply an  
21 internet pharmacy?

22 A. No.

23 Q. Are you aware of the DEA's efforts for  
24 many years in the late '08, '09, '10 period with  
25 respect to internet pharmacies?

1           A.     Yes.

2           Q.     Can you just briefly summarize those for  
3     us?

4                     MR. GADDY:   Objection to form.

5                     THE WITNESS:   Certainly there was a lot  
6     of pop-up pharmacies on the internet that the DEA  
7     was cracking down on and certainly there wasn't a  
8     valid patient/prescriber relationship, and the DEA  
9     had ramped up regulatory efforts against those to  
10    curb them or shut them down.

11    BY MR. BARNES:

12           Q.     Did HBC or Giant Eagle at any time ever  
13    supply an internet pharmacy at any time?

14                     MR. GADDY:   Objection to form.

15                     THE WITNESS:   No.

16    BY MR. BARNES:

17           Q.     Now, with respect to the physical  
18    structure of the HBC warehouse, did you have a  
19    locked cage?

20           A.     Yes.

21           Q.     Was there controlled access to that  
22    locked cage?

23           A.     Yes.

24           Q.     Was that locked cage inspected and  
25    approved by the DEA?

1           A.     Yes.

2           Q.     Was admittance to the locked cage  
3     limited to only certain personnel?

4           A.     Yes.

5           Q.     Was there limited entry for the number  
6     of personnel?

7           A.     Yes.

8           Q.     What was that number, do you recall?

9           A.     Three or four individuals only.

10          Q.     Were they using any type of digital  
11     inventory system with scanners and wrist bands and  
12     things of that nature while they were inside the  
13     controlled substance locked area?

14          A.     Yes.

15          Q.     Do you know the name of that system?

16          A.     I believe Volcom. I think it's Volcom.

17          Q.     Can you spell that, please?

18          A.     V-O-L-C-O-M.

19          Q.     And is that system a form of a perpetual  
20     inventory system?

21          A.     Yes.

22          Q.     Is that a type of internal control at  
23     the warehouse?

24                 MR. GADDY: Objection to form.

25                 THE WITNESS: Sure, yes.

1 BY MR. BARNES:

2 Q. The controlled substance orders that  
3 were picked at the warehouse, the HBC warehouse,  
4 were they doublechecked before shipping?

5 A. Yes.

6 Q. Were there physical safeguards to  
7 prevent theft and diversion at that warehouse?

8 A. Yes.

9 Q. Even while picking the orders?

10 A. Yes.

11 Q. Can you just describe a few of them?

12 A. So there would be daily audits,  
13 backcounts. The system would make sure that all  
14 of the inventory would tie up.

15 Q. So if there was any product missing,  
16 would it be found fairly promptly?

17 A. Oh, yes.

18 Q. Was there a daily warehouse inventory  
19 for controlled substances?

20 A. Yes.

21 Q. Were there security guards and cameras  
22 throughout the facility?

23 A. Yes, multiple.

24 Q. Besides the daily inventories, were  
25 their yearly inventories and biannual DEA

1 inventories?

2 A. Yes.

3 Q. Was the warehouse overseen by the Giant  
4 Eagle audit and accounting department?

5 A. Sure, yes.

6 Q. You were asked a lot of questions about  
7 due diligence performed in the 2009 to 2013 time  
8 period. In fact, Exhibit 12 you were shown a few  
9 minutes ago and you were asked whether you could  
10 identify specific investigations for line items on  
11 these reports.

12 Do you recall those questions?

13 A. Yes.

14 Q. How many transactions like that are we  
15 talking about in any given -- any given month and  
16 year?

17 A. Thousands, millions, many items.

18 Q. And you can't remember every one of  
19 them?

20 A. No.

21 Q. And you didn't attempt to memorize every  
22 one of them in preparation for your deposition?

23 A. No.

24 Q. Have you ever heard of the term CSOS  
25 ordering system?

1 A. Yes.

2 Q. Is that something that was used for the  
3 warehouse facilities?

4 A. Yes.

5 Q. When did that program start being used?

6 A. I believe 2015.

7 Q. Does that program have the ability to  
8 stop an order if it exceeds a threshold?

9 A. Yes.

10 Q. Are you familiar with the Supply Logic  
11 software program?

12 A. Yes.

13 Q. Is that another program that Giant Eagle  
14 used at these warehouses?

15 A. Yes.

16 Q. And what did that allow Giant Eagle or  
17 the warehouses to do?

18 A. It would allow for us to see the ins and  
19 outs of inventory and flag anything that had any  
20 risk or things to look at out of the ordinary.

21 Q. Is that a form of an internal control?

22 MR. GADDY: Objection to form.

23 THE WITNESS: Yes.

24 BY MR. BARNES:

25 Q. Was that part of the overall security

1 system that HBC considered when it was trying to  
2 comply and complying with the security  
3 requirement?

4 MR. GADDY: Objection to form.

5 THE WITNESS: Yes. More further, they  
6 would look at patterns. They would look at pretty  
7 holistically the patterns and any deviations.

8 BY MR. BARNES:

9 Q. You're a pharmacist; is that correct?

10 A. Yes.

11 Q. What kind of degrees in pharmacy do you  
12 have?

13 A. Bachelor of science in pharmacy.

14 Q. And were you a practicing pharmacist in  
15 a store for a period of time?

16 A. Yes.

17 Q. Was that for a different chain,  
18 Albertsons?

19 A. Yes.

20 Q. Are you familiar with dispensing  
21 practices and things of that nature?

22 A. Yes.

23 Q. In your direct testimony upon  
24 questioning by Mr. Gaddy, you referenced this  
25 integrated control system, and you referenced

1 three parts to it, at the warehouse, at corporate  
2 and at the stores. Do you recall that testimony?

3 A. Yes.

4 Q. At the stores are there internal  
5 controls over controlled substances?

6 A. Sure, yes.

7 Q. Are there physical controls over  
8 controlled substances?

9 A. Yes.

10 Q. Does that include vaults -- I'm sorry --  
11 not vaults, but safes and things of that nature?

12 A. Locked cabinets and safes, yes.

13 Q. And who's allowed access to those locked  
14 cabinets and safes?

15 A. Only the pharmacist.

16 Q. Does Giant Eagle have a mechanism to  
17 train pharmacists to keep tight control over  
18 controlled substances?

19 A. Yes.

20 Q. And is that monitored by loss prevention  
21 and internal audit?

22 A. Yes.

23 Q. And are pharmacists and pharmacy techs  
24 trained and supervised?

25 MR. GADDY: Objection to form.

1 THE WITNESS: Yes.

2 BY MR. BARNES:

3 Q. Does Giant Eagle at the store level  
4 impose policies and procedures on the pharmacists  
5 and the pharmacy techs with respect to dispensing  
6 prescriptions?

7 A. Yes.

8 Q. Are you familiar with the DEA pharmacist  
9 manual?

10 A. Of course, yes.

11 Q. Is that something that's kept at every  
12 Giant Eagle pharmacy?

13 A. Yes.

14 Q. And are the pharmacists required to  
15 review it and sign off on it?

16 A. Yes.

17 Q. Does Giant Eagle have controlled  
18 substance dispensing guidelines?

19 A. Yes.

20 Q. Do those guidelines include red flags,  
21 things to watch for in terms of whether a  
22 prescription is legitimate or not?

23 A. Yes.

24 Q. And are they required to review those  
25 and sign off that they've been trained on it and

1 understand them?

2 A. Yes.

3 Q. And are all of Giant Eagle's pharmacists  
4 licensed pharmacists with experience?

5 MR. GADDY: Objection to form.

6 THE WITNESS: Yes.

7 BY MR. BARNES:

8 Q. Are there other manuals containing  
9 policies at the store level related to controlled  
10 substance other than the DEA pharmacist manual and  
11 the controlled substance dispensing guidelines?

12 A. Yes.

13 Q. And do those policies include controls  
14 over all controlled substances?

15 A. Yes.

16 Q. Do the stores interface with any  
17 statewide systems to make sure that incoming  
18 prescriptions are legitimate?

19 A. Yes.

20 Q. In the state of Ohio, is there a name  
21 for that system?

22 A. Sure. It's the prescription drug  
23 monitoring program, the OARRS program.

24 Q. And is that something that the  
25 pharmacists are trained to consult?

1           A.     Yes.

2           Q.     Will that provide some information about  
3     things like doctor shopping and people coming in  
4     from out of state, things of that nature?

5           MR. GADDY:  Objection to form.

6           THE WITNESS:  Yes.

7     BY MR. BARNES:

8           Q.     And do Giant Eagle pharmacists use that  
9     system?

10          A.     Regularly, yes.

11          Q.     Is the activity at the store level  
12     reported to the DEA in terms of prescriptions  
13     filled?

14          A.     Yes, yes.

15          Q.     Is the DEA -- does the DEA from time to  
16     time visit the stores?

17          A.     Sure, yes.

18          Q.     Do they perform surprise audits and  
19     things of that nature?

20          MR. GADDY:  Objection to form.

21          THE WITNESS:  Audits or if they're  
22     coming in for investigations or other things that  
23     they're working on, sure, yes.

24     BY MR. BARNES:

25          Q.     Do of the boards of pharmacy of the

1 states also interface with the stores?

2 A. Yes.

3 Q. Does the Ohio Board of Pharmacy  
4 interface with the Giant Eagle stores in these two  
5 counties at issue?

6 MR. GADDY: Objection to form.

7 THE WITNESS: Yes.

8 BY MR. BARNES:

9 Q. Do they perform surprise audits and  
10 inspections?

11 MR. GADDY: Objection to form.

12 THE WITNESS: Absolutely, yes.

13 BY MR. BARNES:

14 Q. To your knowledge, has there ever been a  
15 problem raised by the DEA or the Ohio Board of  
16 Pharmacy related to any of the Giant Eagle  
17 pharmacies in these two jurisdictions?

18 MR. GADDY: Objection to form.

19 THE WITNESS: Not to my knowledge, no.

20 BY MR. BARNES:

21 Q. Are there controls over incoming orders  
22 into the stores, including orders from the other  
23 distributors? McKesson, I guess, was the main  
24 distributor of controlled substance IIs for this  
25 time period; is that correct?

1 A. Correct.

2 Q. And when those came into the stores,  
3 were there special procedures over those incoming  
4 orders?

5 A. Yes.

6 Q. Were they treated differently than other  
7 incoming orders?

8 A. Absolutely, yes.

9 Q. Give us some samples of that.

10 A. So those orders would need to be checked  
11 in by a pharmacist, signed off on the pharmacist.  
12 Right away when the couriers would drop off, it's  
13 the expectation that the pharmacist would -- it  
14 would be segregated. They come in different totes  
15 and they're handled differently. And any  
16 discrepancies are immediately noted or called in.

17 Q. Is the pharmacist required to  
18 immediately input -- update the store's controlled  
19 substance inventory for incoming orders?

20 A. Their onions?

21 Q. Yes.

22 A. Yes.

23 Q. And when controlled substance  
24 prescriptions are filled, is the inventory, the  
25 store inventory immediately credited for the

1 outgoing prescription?

2 A. Yes.

3 Q. At the end of the day, is there a check  
4 of the remaining balance of controlled substances  
5 at the store?

6 A. Yes, and especially even more so on  
7 CIIs. They're backcounted on every fill.

8 Q. What does it mean to backcount every  
9 fill?

10 A. The system will prompt for how many  
11 pills are left in the bottle. So if you had a  
12 hundred pills to start and you filled 50, you  
13 would expect to have 50 left in that bottle. So  
14 the backcount would be to ensure that you had 50  
15 left in that bottle and inputting that that you do  
16 have, in fact, 50.

17 Q. Are you familiar with the term monthly  
18 narc audit?

19 A. Yes.

20 Q. What is that?

21 A. The requirement that all of our  
22 pharmacies do a full inventory of CII narcotics in  
23 our stores and some other products as well, not  
24 just can CIIs, but some CIIs.

25 Q. So you have the daily perpetual

1 inventory and the monthly narc audits?

2 A. Yes.

3 Q. You also have the annual audits or  
4 inventories of controlled substances at every  
5 store?

6 A. The DEA requires an biannual inventory.  
7 We do an annual inventory on top, yes. We do a  
8 yearly inventory instead of biannual.

9 Q. Can you tell us what a PDL is?

10 A. PDL is a pharmacy district leader.

11 Q. And what do they do?

12 A. They supervise the stores. They're  
13 basically a district manager that oversees the  
14 stores for all aspects of ensuring Pharmacy  
15 Practice Act, DEA, company policy. They're the  
16 oversight for the stores, direct oversight for the  
17 stores.

18 Q. Do they regularly visit the stores?

19 A. Yes.

20 Q. Do they conduct audits or inquiries  
21 concerning their procedures and things of that  
22 nature?

23 A. They do audits. We also have an  
24 internal audit that quarterly visits the stores  
25 for a myriad of things, but yes.

1           Q.    Is there any supervision of training of  
2   pharmacists?

3           A.    Yes.

4           Q.    Is that something a PDL does?

5           A.    A PDL would definitely make sure any  
6   training that needs to be done or computer-based  
7   training is completed, and if there's any  
8   remediation that's needed, that's their job to  
9   make sure.

10          Q.    Do the stores work with local law  
11   enforcement, police, board of pharmacy inspectors,  
12   DEA agents?

13          A.    Oh, yes, all the time.

14               MR. GADDY:  Objection to form.

15   BY MR. BARNES:

16          Q.    Is that cooperative working  
17   relationship?

18               MR. GADDY:  Objection to form.

19               THE WITNESS:  Very much so, yes.

20   BY MR. BARNES:

21          Q.    In working with local law enforcement  
22   and DEA, have you been able to uncover people  
23   attempting to pass bad scripts, things of that  
24   nature?

25          A.    Yes.

1 Q. Is there a pharmacy investigator?

2 A. Yes.

3 Q. Who is that?

4 A. Rick Shaheen.

5 Q. If how much experience does he have?

6 A. He has a lot of experience. He has a  
7 background in law enforcement, attorneys general's  
8 office, a very -- has a lot of contacts with DEA,  
9 boards of pharmacy. So he's been -- he's been in  
10 the business a long time.

11 Q. Does he spend a lot of time in the  
12 stores?

13 MR. GADDY: Objection to form.

14 THE WITNESS: Yes.

15 BY MR. BARNES:

16 Q. Does he also work individually with  
17 local law enforcement and DEA?

18 A. Yes.

19 Q. Are you familiar with the term or the  
20 acronym BOLO, B-O-L-O?

21 A. Yes.

22 Q. What is it?

23 A. Be on the lookout for. So he will send  
24 out bulletins to the pharmacists when either law  
25 enforcement will tell him that there's bad scripts

1 on the street or a prescription pad, for example,  
2 if it's stolen or something, either if we have  
3 information -- so Rick is involved with -- Rick  
4 and Andrew, who work for Rick, are involved with  
5 all of those activities and alert our stores as  
6 soon as they know something and we disseminate  
7 very quickly to all our stores.

8 Q. And is that the type of information  
9 that's also in the OARRS database, or is that  
10 different?

11 MR. GADDY: Objection to form.

12 THE WITNESS: Different.

13 BY MR. BARNES:

14 Q. Are there daily counts of certain drugs?

15 A. Yes.

16 Q. Does that include HCP, hydrocodone, or  
17 HCP products?

18 A. Yes.

19 Q. Is there an electronic prescription  
20 system with perpetual logs at the stores?

21 A. Yes.

22 Q. Is that a form of internal control?

23 A. Yes.

24 Q. Is there diversion training for pharmacy  
25 employees on a yearly basis?

1 MR. GADDY: Objection to form.

2 THE WITNESS: Yes.

3 BY MR. BARNES:

4 Q. Now, you were asked a lot of questions  
5 about so-called suspicious orders. And I didn't  
6 hear a lot of questioning about diversion.

7 Do you understand the term diversion?

8 MR. GADDY: Objection to the question,  
9 form of the question.

10 THE WITNESS: Yes.

11 BY MR. BARNES:

12 Q. What does the term diversion mean to  
13 you?

14 A. Diversion, theft, loss, things being  
15 routed to folks that shouldn't have access to the  
16 drugs or prescriptions.

17 Q. If an order is suspicious, does that  
18 mean it was diverted?

19 MR. GADDY: Objection to form.

20 THE WITNESS: No, not necessarily, no.

21 BY MR. BARNES:

22 Q. In fact, what has HBC's and Giant  
23 Eagle's experience been with respect to so-called  
24 suspicious orders or flagged orders? Have they  
25 resulted in uncovering diversion?

1 MR. GADDY: Objection to form.

2 THE WITNESS: No.

3 BY MR. BARNES:

4 Q. What happens to -- you were asked  
5 questions on Exhibit 15 of these 10 million dosage  
6 units in Cuyahoga County. What happened to those  
7 10 million units? Where did they go?

8 MR. GADDY: Objection to form.

9 THE WITNESS: Assuming those were the 10  
10 million units that we dispensed out of HBC, they  
11 were dispensed to patients that were pursuant --  
12 on a valid prescription.

13 BY MR. BARNES:

14 Q. And how about the dosage units that went  
15 out to Summit County presuming that these numbers  
16 are correct?

17 MR. GADDY: Same objection.

18 THE WITNESS: The same. Every single  
19 one of them would have been dispensed pursuant to  
20 a prescription by a licensed practitioner for  
21 those patients.

22 BY MR. BARNES:

23 Q. In your direct questioning today, were  
24 you shown at any time any evidence, any document,  
25 any piece of paper by plaintiffs' counsel

1 suggesting that any single one of these  
2 prescriptions was anything other than a legitimate  
3 prescription issued by a doctor who had a  
4 legitimate license to issue it?

5 MR. GADDY: Objection to form.

6 THE WITNESS: No.

7 BY MR. BARNES:

8 Q. Were you shown any evidence at any time  
9 that any of these prescriptions caused anybody any  
10 harm at any time in any jurisdiction?

11 MR. GADDY: Objection to form.

12 THE WITNESS: No.

13 BY MR. BARNES:

14 Q. Did the DEA at any time inform HBC or  
15 Giant Eagle that it was required to keep records  
16 of every call, every conversation that was made  
17 with respect to following up on orders of  
18 interest?

19 MR. GADDY: Objection to form.

20 THE WITNESS: No.

21 BY MR. BARNES:

22 Q. Did HBC and Giant Eagle keep those  
23 records and emails in other types of files?

24 A. Yes.

25 Q. Is Giant Eagle's integrated system

1 designed to maintain the integrity of the closed  
2 system of distribution from incoming at the  
3 warehouse to outgoing at the stores?

4 A. Yes.

5 MR. GADDY: Objection to form.

6 BY MR. BARNES:

7 Q. The system that was designed by Giant  
8 Eagle, did you expect it to ever produce a  
9 suspicious order?

10 MR. GADDY: Objection to form.

11 THE WITNESS: No.

12 BY MR. BARNES:

13 Q. Before you had the threshold-based  
14 system, you've already testified, I think, there  
15 was one suspicious order?

16 A. Yes.

17 Q. And after you had the threshold-based  
18 system, you had one suspicious order?

19 A. One more, yes.

20 Q. What does that tell you?

21 MR. GADDY: Objection to form.

22 THE WITNESS: That we had adequate  
23 controls from the beginning. Adding more layers  
24 of controls didn't materially change the outcome  
25 of the system we had in place.

1 BY MR. BARNES:

2 Q. Do you understand that the plaintiffs in  
3 this case are the City of Cleveland, City of Akron  
4 and the counties of Summit and Cuyahoga?

5 A. Yes.

6 Q. To your knowledge, did any of those  
7 plaintiffs ever approach Giant Eagle or HBC and  
8 say, we think we have a problem, we'd like your  
9 assistance, or this doctor is bad or there's a  
10 pill mill down the street, don't fill these  
11 prescriptions? Did they ever do anything like  
12 that?

13 MR. GADDY: Objection to form.

14 THE WITNESS: No; not to my knowledge,  
15 no.

16 BY MR. BARNES:

17 Q. The employees that work in the Giant  
18 Eagle pharmacies in these jurisdictions, do they  
19 live in those communities?

20 A. Yes.

21 MR. GADDY: Objection to form.

22 THE WITNESS: Absolutely, yes.

23 MR. BARNES: I've got no further  
24 questions.

25 RE-EXAMINATION